



# House of Representatives

## File No. 524

General Assembly

February Session, 2006

**(Reprint of File No. 363)**

House Bill No. 5738  
As Amended by House Amendment  
Schedule "A"

Approved by the Legislative Commissioner  
April 17, 2006

**AN ACT CONCERNING RECONSIDERED AGENCY DECISIONS AND  
APPEALS UNDER THE UNIFORM ADMINISTRATIVE PROCEDURE  
ACT.**

Be it enacted by the Senate and House of Representatives in General  
Assembly convened:

1 Section 1. Subsection (a) of section 4-181a of the general statutes is  
2 repealed and the following is substituted in lieu thereof (*Effective*  
3 *October 1, 2006*):

4 (a) (1) Unless otherwise provided by law, a party in a contested case  
5 may, within fifteen days after the personal delivery or mailing of the  
6 final decision, file with the agency a petition for reconsideration of the  
7 decision on the ground that: (A) An error of fact or law should be  
8 corrected; (B) new evidence has been discovered which materially  
9 affects the merits of the case and which for good reasons was not  
10 presented in the agency proceeding; or (C) other good cause for  
11 reconsideration has been shown. Within twenty-five days of the filing  
12 of the petition, the agency shall decide whether to reconsider the final  
13 decision. The failure of the agency to make that determination within  
14 twenty-five days of such filing shall constitute a denial of the petition.

15 (2) Within forty days of the personal delivery or mailing of the final

16 decision, the agency, regardless of whether a petition for  
17 reconsideration has been filed, may decide to reconsider the final  
18 decision.

19 (3) If the agency decides to reconsider a final decision, pursuant to  
20 subdivision (1) or (2) of this subsection, the agency shall proceed in a  
21 reasonable time to conduct such additional proceedings as may be  
22 necessary to render a decision modifying, affirming [,] or reversing the  
23 final decision, provided such decision made after reconsideration shall  
24 be rendered not later than ninety days following the date on which the  
25 agency decides to reconsider the final decision. If the agency fails to  
26 render such decision made after reconsideration within such ninety-  
27 day period, the original final decision shall remain the final decision in  
28 the contested case for purposes of any appeal under the provisions of  
29 section 4-183, as amended by this act.

30 (4) Except as otherwise provided in subdivision (3) of this  
31 subsection, an agency decision made after reconsideration pursuant to  
32 this subsection shall become the final decision in the contested case in  
33 lieu of the original final decision for purposes of any appeal under the  
34 provisions of section 4-183, as amended by this act, including, but not  
35 limited to, an appeal of (A) any issue decided by the agency in its  
36 original final decision that was not the subject of any petition for  
37 reconsideration or the agency's decision made after reconsideration,  
38 (B) any issue as to which reconsideration was requested but not  
39 granted, and (C) any issue that was reconsidered but not modified by  
40 the agency from the determination of such issue in the original final  
41 decision.

42 Sec. 2. Subsection (c) of section 4-183 of the general statutes is  
43 repealed and the following is substituted in lieu thereof (*Effective*  
44 *October 1, 2006*):

45 (c) (1) Within forty-five days after mailing of the final decision  
46 under section 4-180 or, if there is no mailing, within forty-five days  
47 after personal delivery of the final decision under said section, or (2)

48 within forty-five days after the agency denies a petition for  
49 reconsideration of the final decision pursuant to subdivision (1) of  
50 subsection (a) of section 4-181a, as amended by this act, or (3) within  
51 forty-five days after mailing of the final decision made after  
52 reconsideration pursuant to subdivisions (3) and (4) of subsection (a)  
53 of section 4-181a, as amended by this act, or, if there is no mailing,  
54 within forty-five days after personal delivery of the final decision  
55 made after reconsideration pursuant to said subdivisions, or (4) within  
56 forty-five days after the expiration of the ninety-day period required  
57 under subdivision (3) of subsection (a) of section 4-181a, as amended  
58 by this act, if the agency decides to reconsider the final decision and  
59 fails to render a decision made after reconsideration within such  
60 period, whichever is applicable and is later, a person appealing as  
61 provided in this section shall serve a copy of the appeal on the agency  
62 that rendered the final decision at its office or at the office of the  
63 Attorney General in Hartford and file the appeal with the clerk of the  
64 superior court for the judicial district of New Britain or for the judicial  
65 district wherein the person appealing resides or, if that person is not a  
66 resident of this state, with the clerk of the court for the judicial district  
67 of New Britain. Within that time, the person appealing shall also serve  
68 a copy of the appeal on each party listed in the final decision at the  
69 address shown in the decision, provided failure to make such service  
70 within forty-five days on parties other than the agency that rendered  
71 the final decision shall not deprive the court of jurisdiction over the  
72 appeal. Service of the appeal shall be made by [(1)] United States mail,  
73 certified or registered, postage prepaid, return receipt requested,  
74 without the use of a state marshal or other officer, or [(2)] by personal  
75 service by a proper officer or indifferent person making service in the  
76 same manner as complaints are served in ordinary civil actions. If  
77 service of the appeal is made by mail, service shall be effective upon  
78 deposit of the appeal in the mail.

This act shall take effect as follows and shall amend the following sections:

Section 1	October 1, 2006	4-181a(a)
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Sec. 2	<i>October 1, 2006</i>	4-183(c)
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The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

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### **OFA Fiscal Note**

#### **State Impact:**

Agency Affected	Fund-Effect	FY 07 \$	FY 08 \$
Various State Agencies	Various - Savings	Potential	Potential

**Municipal Impact:** None

#### **Explanation**

The bill clarifies the appeal process for certain state agency decisions made under the Uniform Administrative Procedure Act and establishes a deadline of ninety days for any state agency to render a reconsidered decision in a contested case. These changes would expedite appeals and could thereby result in state savings related to litigation and adjudication.

House Amendment "A" made additional clarifying changes with no fiscal impact.

### **The Out Years**

#### **State Impact:**

Agency Affected	Fund-Effect	FY 09 \$	FY 10 \$	FY 11 \$
Various State Agencies	Various - Savings	Potential	Potential	Potential

**Municipal Impact:** None

**OLR Bill Analysis****HB 5738 (as amended by House "A")\******AN ACT CONCERNING RECONSIDERED AGENCY DECISIONS  
UNDER THE UNIFORM ADMINISTRATIVE PROCEDURE ACT.*****SUMMARY:**

This bill establishes a deadline for state agencies to render a reconsidered decision in a contested case. They must issue these decisions within 90 days after deciding to reconsider. By law, agencies can decide to reconsider a final decision in a contested case on their own or pursuant to a petition from a party to the case.

With one exception, the bill provides that a decision an agency issues in a contested case on reconsideration replaces its original decision as the final decision from which an appeal may be taken. Among other issues, any such appeal may be based on issues the agency (1) decided in its original final decision that were not the subject of the reconsideration; (2) was requested, but declined, to address on reconsideration; and (3) reconsidered but did not modify. The exception applies if an agency fails to render a decision on reconsideration within the 90-day period the bill establishes. In this case, the original decision is the final decision for purpose of an appeal.

Lastly, the bill establishes a deadline for filing an appeal after a petition for reconsideration is filed. It is within 45 after (1) the petition is denied, (2) a decision made after reconsideration is mailed or personally delivered, or (3) the 90-day deadline for a decision.

\*House Amendment "A" establishes (1) the default in the event an agency does not render a decision on reconsideration within 90 days and (2) an appeal deadline.

EFFECTIVE DATE: October 1, 2006

**COMMITTEE ACTION**

Judiciary Committee

Joint Favorable

Yea    36    Nay   0    (03/17/2006)